

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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EDWARD KUZUKIAN,

Plaintiff,

-against-

ORDER

CV 04-2696 (ADS)(ARL)

INCORPORATED VILLAGE OF BAYVILLE
and JAMES A. GOOLSKY,

Defendants.

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LINDSAY, Magistrate Judge:

Before the court is the defendants' letter application seeking to compel the plaintiff to provide the defendants with his automatic disclosure and to respond to the defendants' discovery demands served in September 2004. The defendants' application is granted as unopposed. The plaintiff shall respond to all of the outstanding discovery requests and provide the defendants with automatic disclosure by August 18, 2005. The plaintiff is warned that his failure to do so may result in a recommendation that the case be dismissed for failure to prosecute. See Fed. R. Civ. P. 37(b) & 41(b). Rule 41(b) gives the district court power to dismiss a complaint "for failure to comply with a court order, treating noncompliance as a failure to prosecute." *Simmons v. Abruzzo*, 49 F.3d 83, 87 (2d Cir. 1995). It is well settled that a dismissal under Rule 41(b) "operates as an adjudication on the merits and that such a dismissal is with prejudice." *Hoffman v. Wisner Classic Mfg. CO.*, 927 F. Supp. 67, 71 (E.D.N.Y. 1996) (citing *Link v. Wabash R. Co.*, 370 U.S. 626, 630-32 (1962)).

The court will not extend the discovery deadlines at this time. Upon receipt of the plaintiff's responses, the defendants may renew their application for additional time to complete discovery. The defendants' application must specify the specific discovery remaining to be completed and the time needed to do so.

Dated: Central Islip, New York
August 4, 2005

SO ORDERED:

_____/s/_____
ARLENE R. LINDSAY
United States Magistrate Judge